INTERNATIONAL PREPAID COMMUNICATIONS ASSOCIATION®

Via Electronic Filing June 14, 2002

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Notice of Ex Parte Communication, CC Docket No. 98-171 -- In the Matter of 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms

Dear Ms. Dortch:

This filing is submitted as a follow-up to the June 4, 2002 meeting between IPCA members and members of the Commission's Telecommunications Access Policy Division of the Wireline Services Bureau. At that meeting, Staff asked a number of questions regarding IPCA's position on several issues raised in the above proceeding. The intent of this letter is to provide further clarification of IPCA's position.

At the meeting, members of the Division asked IPCA to respond to criticism by ILECs who argue that a per connection mechanism for assessing Universal Service Funds is inconsistent with the "every telecommunications carrier…shall contribute," language found in Section 254(d) of the Act. Specifically, ILECs argue that because a per connection plan runs afoul of Section 254(d) because under such a plan, only the carrier that provides a particular interstate end user connection will be required to directly contribute on the basis of that connection, while other service providers who serve that customer, but do not provide the actual end user connection will not be required to contribute on the basis of that same connection. Specifically, under a per connection plan, where an ILEC provides the end user's interstate connection only the ILEC will be required to collect and remit the USF contribution, while other carriers who provide service via that connection such as a PIC'd IXC, dial-around providers, and ISPs would not.

As IPCA explained, such criticisms have been roundly put to rest and counter arguments have been well articulated in the Comments and Reply Comments submitted by the Coalition for Sustainable Universal Service (CoSUS), Sprint, AT&T, WorldCom as well as others in this proceeding. First, all interstate carriers will indeed be required to submit Universal Service fees when they provide the end user connection. As CoSUS explained in its Reply Comments:

> Under the CoSUS proposal, AT&T, WorldCom and Sprint will all pay substantial connection-based universal service assessments. The fact that the total assessment to these carriers may be smaller under an end user connection-based assessment mechanism does not change that these carriers would be contributing according to the 'equitable and non-discriminatory' formula adopted by the Commission.[1]

This point is further brought home in WorldCom's Comments that note that it expects to provide local service to more than 3 million local lines by year end, and has recently launched a new bundled service offering, called "the Neighborhood" which currently reaches more than 50 million households in 32 states.[2] In addition to the largest IXCs, other so-called "second-tier" carriers, such as IDT, also provide end user connections to the PSTN.

As explained above, it is clear that almost all interstate telecommunications carriers will contribute to the fund. Even those carriers who provide predominantly dial-around services more often than not provide some end user connections and will contribute. Indeed, the debit card providers with the largest percentage of market share in the prepaid industry are traditional IXCs and LECs. According to a 2000 Frost & Sullvan study, the companies with the most market share in the calling card market are those who also provide end user connections, with AT&T, Sprint, and WorldCom holding approximately 67% of the total wireline calling card market, and RBOCs and other IXCs that provide interstate connections, including Verizon, Qwest, Ameritech, SBC, IDT.[3] and Cable & Wireless as other predominant market share holders.[4] Further, many of IPCA's members who do not provide traditional wireline connections do provide other assessable services – such as prepaid wireless services-- and will contribute to the universal service fund under a per-connection plan on a per phone number basis.[5]

[1] CoSUS Reply Comments, p. 57.
[2] WorldCom Comments, p. 6.

[3] According to Frost & Sullivan, IDT and PT-1, which IDT acquired in 2001, account for 19% of the prepaid calling card market.

[4] U.S. Wireline Card Calling Services Markets, Frost & Sullvan, 2000, p. 4-12 Calculation of market share includes both prepaid and post paid wireline calling card services. According to Frost & Sullivan, AT&T, WorldCom, and Sprint together have a combined 83% market share in the post-paid wireline calling card market, and a 53% market share of the pre-paid market. (See Attachment 2).

[5] See Attachment 3.

Additionally, even though there will likely be a few carriers who, because they do not provide any end user connections will not be required to directly contribute to Universal Service, this does not mean that a per connection assessment mechanism would violate the statute as some ILECs suggest. Such notions have been clearly dispelled by the cogent and persuasive legal arguments already submitted to the Commission by CoSUS, and Sprint.[6] Indeed, as noted by Sprint in its initial comments, "254(d) does not require (and has never been read to require) all carriers providing interstate services to contribute to federal universal service funds."[7] As CoSUS points out, even under the existing mechanism, carriers who provide only wholesale services do not contribute to the fund.[8] Further, some "pure IXCs" that would not contribute under a per connection mechanism because they do not provide end user connections also do not contribute to the fund today, either because they have been classified as *de minimis* carriers due to their relatively small size, or because they market mostly international services to ethnic communities.[9] Indeed, under the existing regime, providers of predominantly international services must decide whether to provide attractive domestic services at all, given that if they tip the scale and provide over 12% domestic service, all of their revenue will be subject to assessment. Accordingly, converting to a per connection fee will eliminate the existing perverse incentives caused by existing regulation which has heretofore dissuaded some providers from entering the domestic marketplace, and may lead to additional competition in the domestic telecommunications market. Accordingly, IPCA continues to support the proposals put forth by CoSUS and Sprint that advocate assessing universal service funding based on a per-connection fee.

Lastly, IPCA continues to oppose the bifurcated proposal of SBC and BellSouth (The ILEC Proposal) that would discriminate against "pure IXCs" and their customers. As IPCA noted in its June 6 *ex parte* filing, the ILEC proposal would base some carriers' assessments on gross revenues while all other carriers would pay on a per connection basis. In addition, the ILEC proposal would penalize those customers who choose to use multiple service providers by forcing them to pay multiple universal service fees, while those customers who choose to purchase services only from their ILECs will be subject to fewer fees. Typically, customers of dial-around and prepaid calling cards are savvy, price sensitive customers who shop around for the combinations of providers who best

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[6] See CoSUS Comments, pp. 82-92 , Reply Comments, pp. 57-59, Sprint Comments, pp. 17-20, Reply Comments, pp. 10-12.

[7] Sprint FNPRM Comments, p. 19.

[8] CoSUS Reply Comments, p. 58.

[9] Indeed, as NECA notes in its Comments, of the1500 carriers who are categorized as resellers, operator service providers, prepaid calling card providers and dial around providers, 1200 are currently classified as *de minimis* providers, with only 300 currently contributing directly to the fund. (See NECA Comments, p. 6). NECA's concerns that that under a per connection plan, these 300 carriers will no longer contribute, thus potentially reducing the size of the fund is misguided. NECA apparently overlooks the fact that all contributions that would have been submitted by the 300 carriers will now be collected and submitted from the provider of the end-user connection. NECA's fear that carriers will seek to minimize their connections under a per connection plan is unsupported by any evidence. Further, it is unlikely that the Commission will see any erosion in the number of connections to the PSTN since consumer demand for end user connections is perhaps the least elastic of all telecommunications services.

suit their particular calling patterns. For example, it is not unusual for this type of customer to use one provider for access to the PSTN, a second for PIC'd long distance service, a third for 1010 dial around services, and multiple debit card providers to call different international destinations. Under the ILEC plan, this type of consumer may be assessed four or five separate Universal Service assessments, while a consumer who only uses only one provider to handle all her calling needs would be assessed only once. Accordingly, this result would be a giant step backwards towards minimizing the benefits that come from increased telecommunications competition, because it would create incentives for customers to purchase all of their services from their ILEC instead of taking advantage of competitive advantages that they could reap from using a multitude of providers. Additionally, it bears mention that prepaid and dial-around products are most attractive to the poorest members of the community. The ILEC proposal would have the perverse effect of burdening the poorest members of the population the most by causing them to pay the highest contributions in universal service fees – a result that would directly contradict the goals of both Congress and this Commission to ensure that low income consumers receive quality services at affordable rates. Finally, the ILEC proposal is unnecessarily unwieldy and complex, and will create additional administrative difficulties borne of requiring multiple carriers to track and remit universal service assessments, even though all of those providers reached the end user through the very same end user connection. Such administrative gymnastics could easily be avoided by implementing a per connection charge as proposed by Sprint and CoSUS. Accordingly, IPCA urges the Commission to reject the ILEC proposal and adopt a per connection assessment mechanism.

Sincerely,

Howard Segermark

Attachments

cc: Eric Einhorn, Esq.
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